

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

RODNEY SESSION

§

VS.

§

CIVIL ACTION NO. 6:16cv20

ROGER KEITH

§

MEMORANDUM OPINION ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

Plaintiff Rodney Session, proceeding *pro se* and *in forma pauperis*, brings this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. The complaint was referred for findings of fact, conclusions of law, and recommendations for the disposition of the case.

After a review of the Defendant's motion for summary judgment, this Court issued a show cause order directing Session to respond to the motion for summary judgment within ten days from receipt of the order, (Dkt. #20). Session failed to respond and, as a result, this Court issued a Report recommending that his civil rights lawsuit be dismissed for the failure to comply with the show cause order, (Dkt. #22). A copy of this Report was sent to Session at his address, which he provided as a notice of a change of address on July 25, 2016, return receipt requested; however, the Report was returned as undeliverable. (Dkt. #23).

However, "[i]t is incumbent upon litigants to inform the Court of address changes, for its manifest that communication between the clerk and the parties or their counsel will be conducted principally by mail. *See Shannon v. State of La.*, 1988 WL 54768, No. 87-3951 (E.D. La. May, 23, 1988) (quoting *Perkins v. King*, No. 84-3310, slip op. (5th Cir. May 19, 1985)). Here, Session

did not, and has not, filed a second notice of a change of address. To date, no objections have been filed.

Accordingly, Session is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly it is

ORDERED that the Report of the Magistrate Judge, (Dkt. #22), is **ADOPTED** as the opinion of the District Court. Further, it is

ORDERED that the above-styled civil rights lawsuit is **DISMISSED WITHOUT PREJUDICE**. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So Ordered and Signed

Feb 9, 2018



Ron Clark, United States District Judge